



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2022-0013; Notice No. 218]

RIN 1513-AC91

Proposed Establishment of the Winters Highlands Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the 7,296-acre “Winters Highlands” viticultural area in portions of Solano and Yolo Counties, in California. The proposed viticultural area is not within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may electronically submit comments to TTB on this proposal using the comment form for this document posted within Docket No. TTB-2022-0013 on the Regulations.gov website at <https://www.regulations.gov>. At the same location, you also may view copies of this document, the related petition and selected supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking> under Notice No. 218. Alternatively, you may submit comments via postal mail to the Director,

Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005. Please see the **Public Participation** section of this document for further information on the comments requested on this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120-01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of

petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that

make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;

- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Winters Highlands Petition

TTB received a petition from Berryessa Gap Vineyards proposing the establishment of the “Winters Highlands” AVA. The proposed Winters Highlands AVA is located in portions of Solano and Yolo Counties, California. The proposed AVA contains 7,296 acres, with 134 acres of planted vineyards and an additional 60 acres planned for future planting at the time the petition was submitted. There are also three wineries within the proposed AVA. Grape varieties grown in the proposed AVA include Petite Syrah, Tempranillo, Malbec, and Chardonnay.

According to the petition, the distinguishing features of the proposed Winters Highlands AVA are its climate and soils. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this document are from the petition for the proposed Winters Highlands AVA and its supporting exhibits.

Name Evidence

The petition states that the proposed Winters Highlands AVA is located in the easternmost foothills of the northern Coast Range, where the Coast Range adjoins the Sacramento Valley. The city of Winters is adjacent to the eastern boundary of the proposed AVA but is not located within the proposed AVA;

however, the Winters ZIP code is used for both the city and the region within the proposed AVA. The Winters Community Center and Winters Community Library both serve the region of the proposed AVA, as does the Winters Unified School District and the Winters Parent Nursery School. Other businesses and organizations serving the region include the Winters Post Office, Winters Laundromat, Winters Theater Company, Winters Concrete, Winters Eyecare, Winters Healthcare, Winters Printing, and Winters Self Storage. The Winters Highlands subdivision lies along the western boundary of the city limits, and the Highlands Canal flows along the eastern boundary of the proposed AVA.

Boundary Evidence

The proposed Winters Highlands AVA is a region of steep to gentle slopes along the eastern edge of the Coast Range and encompasses the alluvial deposits of Putah Creek, which flows through the southern portion of the proposed AVA. The proposed northern boundary follows Chickahominy Slough to separate the higher, rolling terrain of the proposed AVA from the flatter, lower terrain of the Sacramento Valley. The proposed eastern boundary follows the 170-foot elevation contour, the Highland Canal, and County Road 88 and also separates the proposed AVA from the Sacramento Valley floor. The proposed southern boundary follows a series of roads to approximate the extent of the alluvial deposits of Putah Creek. The proposed western boundary follows a series of straight lines drawn between points and separates the proposed AVA from the higher, steeper elevations of the Coast Range.

Distinguishing Features

The distinguishing features of the proposed Winters Highlands AVA are its climate—temperature, precipitation, and relative air humidity—and soils.

Temperatures

According to the petition, the location of the proposed Winters Highlands AVA influences its temperatures. The proposed AVA is located on the eastern side of the Coast Ranges, which shelter the proposed AVA from much of the cool air blowing eastward from the Pacific Ocean. However, the Berryessa Gap, a break in the Coast Ranges where Putah Creek flows into the manmade Lake Berryessa, does allow some cool air from the Pacific Ocean directly into the proposed AVA, particularly in the evenings. The petition states that, as a result, the proposed AVA tends to have cooler evenings than the more inland regions to the east of the proposed AVA. The petition goes on to say that the proposed AVA has a greater number of growing degree days (GDDs)¹ than surrounding areas, with a wide difference between daily high and low temperatures, a set of conditions that promotes the growing of Mediterranean-type grapes.

The petition included GDD information for the proposed Winters Highlands AVA and the surrounding regions. The data is included in the following table.

Table 1: Cumulative Growing Season GDDs²

Location (direction from proposed AVA)	2012	2013	2014	2015	2016	2017	Average
Davis (east)	2,000	2,193	2,330	2,286	2,170	2,297	2,232
Oakville (west)	1,455	1,633	1,728	N/A	1,343	1,756	1,597
Carneros (southwest)	1,157	1,323	1,461	1,455	1,292	1,366	1,342
Dixon (southeast)	1,801	1,869	1,959	1,959	1,853	1,989	1,914

¹ See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual Growing Degree Days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia: 1,500–2,000 GDDs; Region Ib: 2,000–2,500 GDDs; Region II: 2,500–3,000 GDDs; Region III: 3,000–3,500 GDDs; Region IV: 3,500–4,000 GDDs; Region V: 4,000–4,900 GDDs.

² The petition defines the growing season as April 1 through October 1.

Proposed Winters Highlands AVA	2,224	2,377	2,434	2,396	2,293	2,357	2,347
Woodland (northeast)	2,236	2,301	2,462	2,392	2,304	2,474	2,361

The data in the table indicate that the proposed Winters Highlands AVA has an average GDD accumulation that is greater than accumulations in each of the surrounding locations except the Woodland location, located northeast of the proposed AVA.

The petition also discussed the average monthly minimum and maximum temperatures for the same locations and range of dates included in the GDD information section. According to the petition, regional differences in the average monthly maximum temperature are most noticeable between May and September. During those months, the average monthly maximum temperature in the proposed Winters Highlands AVA is greater than in all other regions except the Woodland region. The petition states that from March to September, the average monthly minimum temperature in the proposed AVA is similar to that of the Davis and Woodland locations, to the east and northeast of the proposed AVA, and higher than temperatures in the other surrounding locations.

The petition states that frost-free days are the criterion for the length of the growing season for wine grape production regions, as spring frost can damage the newly-emerged shoots and fall frost can lead to leaf senescence and berry damage. The petition included frost-free day data³ from the Western Regional Climate Center, which was based on the weather record of more than 60 years. The data, summarized in the following table, shows that the proposed Winters

³ The frost-free period was estimated based on the number of days between the last spring and first fall occurrence of 0 degrees C at the probability of 60 percent.

Highlands has more frost-free days than any of the other locations except the Davis location, to the east of the proposed AVA.

Table 2: Frost-Free Days

Location (direction from proposed AVA)	Number of Frost-Free Days
Davis (east)	310
Oakville (west)	150
Carneros (southwest)	230
Dixon (southeast)	230
Woodland (northeast)	280
Proposed Winters Highlands AVA	290

Precipitation and Relative Air Humidity

The petition included information on the average monthly precipitation amounts for the proposed Winters Highlands AVA and the surrounding locations. The data was collected from the same locations and during the same time period as the previously-discussed GDD and temperature data. The petition states that the proposed AVA and surrounding regions are all dry during the summer months (May to August), and precipitation takes place mainly during the winter months (January to March). From January to March, precipitation amounts in the proposed AVA were similar to amounts in Dixon, to the southeast of the proposed AVA; greater than the amounts in the regions to the southwest, east, and northeast; and lower than the amounts to the west. From September to December, the proposed AVA has similar average monthly precipitation as the regions to the east and southeast but is dryer than the regions to the west and southwest and wetter than the region to the northeast. According to the petition, precipitation amounts influence the amount of water retained in the soil and vineyard irrigation decisions during the growing season.

The petition also included average relative air humidity for the same locations and time period as used in the precipitation data. The data suggests

that the proposed AVA has lower humidity than all the surrounding regions throughout the year, with the exception of October and November, when the humidity in the proposed AVA rises slightly and becomes similar to that of the region to the northeast. According to the petition, air humidity during the growing season has a profound influence on pest and disease control in vineyards.

Soils

The petition states that soils are important to viticulture because the soil profile can play a significant role in vine growth, fruit composition, and wine characteristics. The soils within the proposed Winters Highlands AVA are dominated by fine clay or loamy alfisols and inceptisols with gentle to steep slopes. All the soils are in the thermic soil temperature regime, meaning the mean annual soil temperature is between 15 and 22 degrees C. The soils are also described as belonging to the xeric soil moisture regime, meaning they are warm and rather dry in the summer and cool and wet in the winter. Soils within the proposed AVA are mostly well or moderately well drained, which is critical for root growth and respiration.

The petition also states that soils within the proposed Winters Highlands AVA generally have a lower soil pH due to the low levels of precipitation the area receives. The petition claims that soils in wetter regions, such as the regions west of the proposed AVA, are subject to a greater level of cation leaching, which can increase the pH of soils and lead to a difference in available soil nutrients. As a result, different fertilization and irrigation practices may be necessary in vineyards with high pH soils.

The petition states that although the soil texture and temperature and moisture regimes of the soils within the proposed Winters Highlands AVA are similar, the parent materials of the soils differ. The proposed AVA is located in

an area where two geomorphic provinces, the Central Valley and the Coast Range, meet. The Central Valley is an alluvial plain with continuous deposits. The northern Coast Range is dominated by Franciscan rock (composed of sedimentary rock mixed with igneous rock) and metamorphic rock. As a result, soils closer to the Central Valley, such as the Yolo and Sycamore series found in the northeastern portion of the proposed AVA, are very deep and derived from mixed sources on the alluvial fan. Soils closer to the Coast Range, such as the Balcom and Diablo soils found in the western and southeastern portions of the proposed AVA, are relatively shallow and formed on the terraces from sedimentary rocks.

To the north and south of the proposed AVA, the soils have a similar profile to those of the proposed AVA. However, the petition states that soils with poor or somewhat poor drainage, such as the Clear Lake series, are more prevalent in the region to the north, and soils derived from sedimentary rocks, rather than alluvium, are more common in the region to the south. To the east and southeast of the proposed AVA, the soils are dominated by clay, loamy clay, and loam soils formed from the alluvium of mixed sources on nearly-level to gentle slopes. To the southwest of the proposed AVA, soils are mainly loamy clay mollisols, vertisols, ultisols, and alfisols on alluvial fans and terraces.

Summary of Distinguishing Features

The following table shows the characteristics of the proposed AVA compared to the features of surrounding regions.

Table 3: Features of Proposed AVA and Surrounding Regions

Region (Location)	Features		
	Temperatures	Precipitation/ Humidity	Soils

Proposed Winters Highlands AVA	Affected by some Pacific air entering through the Berryessa Gap; annual average of 2,347 GDDs; warm summer and relatively warm winter temperatures; average frost-free period is 290 days	Very low year-round humidity; little precipitation in summer; most rainfall occurs in fall and winter	Fine clay or loamy alfisols and inceptisols with gentle to steep slopes; thermic soil temperature regime; xeric soil moisture regime; parent materials primarily alluvial plains or Franciscan and metamorphic rock
East (Davis)	Annual average of 2,232 GDDs; average frost-free period is 310 days; lower average monthly maximum temperature from May to September; similar average monthly minimum temperatures from March to September	Higher relative air humidity; lower January to March precipitation amounts; similar September to December precipitation amounts	Clay, loamy clay, or loams; formed from alluvium of mixed sources; nearly-level to gentle slopes
West (Oakville)	Annual average of 1,597 GDDs; average frost-free period is 150 days; lower average monthly maximum temperature from May to September; lower average monthly minimum temperature from March to September	Higher relative air humidity; higher year-round precipitation amounts	Soils have higher pH levels
Southwest (Carneros)	Annual average of 1,342 GDDs; average frost-free period is 230 days; lower average maximum temperature from May to September; lower average monthly minimum temperature from March to September	Lower January to March precipitation amounts; higher September to December precipitation amounts; higher year-round relative air humidity	Loamy or clay mollisols, vertisols, ultisols, and alfisols on alluvial fans and terraces

Southeast (Dixon)	Annual average of 1,914 GDDs; average frost-free period is 230 days; lower average monthly maximum temperature from May to September; lower average monthly minimum temperature from March to September	Similar year-round precipitation amounts; higher year-round relative humidity	Clay, loamy clay, or loams; formed from alluvium of mixed sources; nearly-level to gentle slopes
North and Northeast	Annual average of 2,361 GDDs (northeast); average frost-free period is 280 days (northeast); higher average monthly maximum temperatures from May to September (northeast); similar average monthly minimum temperatures from March to September (northeast)	Lower year-round precipitation amounts (northeast); higher relative air humidity, except similar to proposed AVA in October and November (northeast)	Similar soil profile to that of the proposed AVA, but soils with poor or somewhat poor drainage are more common (north)

TTB Determination

TTB concludes that the petition to establish the proposed Winters Highlands AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text. You may also view the proposed Winters Highlands AVA boundary on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Winters Highlands," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name "Winters Highlands" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if TTB adopts this proposed rule as a final rule.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed Winters Highlands AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of required information

submitted in support of the petition. Please provide specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Winters Highlands AVA on wine labels that include the term “Winters Highlands” as discussed above under **Impact on Current Wine Labels**, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed AVA name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the proposed AVA.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the Regulations.gov website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 218 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may request a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, the related petition and selected supporting materials, and any comments TTB receives about this proposal within the related Regulations.gov docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202–453–2265, if you have any questions about commenting on this proposal or to request copies of this document, the related petition and its supporting materials, or any comments received.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Add § 9.____ to read as follows:

§ 9.____ Winters Highlands.

(a) *Name*. The name of the viticultural area described in this section is “Winters Highlands”. For purposes of part 4 of this chapter, “Winters Highlands” is a term of viticultural significance.

(b) *Approved maps*. The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Winters Highlands viticultural area are:

- (1) Winters, CA, 2018;
- (2) Allendale, CA, 2018;
- (3) Mount Vaca, CA, 2018; and
- (4) Monticello Dam, CA, 2018.

(c) *Boundary*. The Winters Highlands viticultural area is located in portions of Solano and Yolo Counties, California. The boundary of the Winters Highlands viticultural area is as described as follows:

(1) The boundary begins on the Winters map at the intersection of Putah Creek Road and Wintu Way. From the beginning point, proceed southeasterly along Wintu Way, crossing onto the Allendale map, to the terminus of Wintu Way; then

(2) Proceed south-southwest in a straight line for 1.05 miles to the eastern terminus of Morse Lane; then

(3) Proceed westerly along Morse Lane to its intersection with Olive School Lane; then

(4) Proceed north-northwest in a straight line for 2.52 miles, crossing over the northeastern corner of the Mount Vaca map and onto the Monticello Dam map, to the line's intersection with Highway 128, approximately 2.78 miles west of the intersection of Highway 128 and County Road 89; then

(5) Proceed north in a straight line to the intersection of the line with the Chickahominy Slough; then

(6) Proceed east-southeast along the Chickahominy Slough, crossing onto the Winters map, to its intersection with the 170-foot elevation contour; then

(7) Proceed south-southeasterly along the 170-foot elevation contour to its intersection with the Winters Canal; then

(8) Proceed south along the Winters Canal to its intersection with the terminus of an unnamed local road; then

(9) Proceed due west in a straight line to the 200-foot elevation contour; then

(10) Proceed south in a straight line to the northern terminus of County Road 88; then

(11) Proceed south along County Road 88 to its southern terminus and continue south in a straight line to Valley Oak Drive; then

(12) Proceed southerly along Valley Oak Drive to its intersection with Highway 128; then

(13) Proceed southeasterly in a straight line for 1.04 miles, returning to the beginning point.

Signed: November 15, 2022.

Mary G. Ryan,

Administrator.

Approved: November 16, 2022.

Thomas C. West, Jr.,

*Deputy Assistant Secretary
(Tax Policy).*

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